

HOW LIBERTY IS LOST

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In the wake of numerous recent changes made in American law and that of numerous countries following the September 11 terrorist attacks, civil libertarians, libertarians, and many others have raised concerns that the nations involved are sacrificing their liberty to enhance their safety. Senator Patrick Leahy expressed concern that the United States was “shredding the Constitution.” Civil libertarian organizations such as the American Civil Liberties Union (ACLU) have described the government’s penchant toward obtaining new powers after September 11 as an “insatiable appetite,” characterized by government secrecy, a lack of transparency, rejection of equality under the law, and “a disdain and outright removal of checks and balances.” Articles in the popular press express similar sentiments. Writing in the *American Prospect*, Wendy Kaminer expressed the fear that, “Give the FBI unchecked domestic spying powers and instead of focusing on preventing terrorism, it will revert to doing what it does best—monitoring, harassing, and intimidating political dissidents and thousands of harmless immigrants.” In short, it has been argued that in order to protect ourselves from terrorists, democracy may be endangered, if not lost.

The question, “Under what conditions is democracy undermined?” has been the topic of considerable previous deliberations, especially by people who studied the fall of the Weimar Republic and the rise of the Nazis in Germany. However, for the last decades, much more focus has been on the question of how to help democracy grow in countries that have had little previous experience with this form of governance (for instance, some former communist nations and a fair number of developing nations), rather than on how democracy might be lost. Given the recent events and claims, the latter question deserves to be revisited. This question is particularly germane because if it were true that in order to survive future waves of terrorist attacks (including ones using weapons of mass destruction) we must turn our free societies into garrison states, many members of free societies might well be reluctant to accept such a trade-off.

Fortunately, the empirical basis for such a study of the conditions under which democracy is actu-

ally lost is very limited because democracy—once firmly established—has almost never been lost due to internal developments (as distinct from occupation by an invading force). Democracy seems to be an odd plant: it has been very difficult for it to take root, especially in parts of the world where it has not been “naturally” found, but where various efforts have been made to seed it. Once it buds, it often faces great difficulties and frequently dies on the vein, or at least suffers numerous setbacks before it grows properly. But after it firmly takes root, it tends to withstand numerous challenges well and is rarely lost. Indeed, one key example of democracy lost comes to mind—and that is the already mentioned Weimar Republic—and it is arguable whether democracy was even well-established there.

Before the discussion proceeds, a word on definition: if one defines “democracy” very lightly, such as a nation that holds regular elections, one finds that none of the preceding statements hold. Elections are held all over the world, including in nations in which there is only one political party, one candidate, a legislature which rubber stamps whatever the government proposes, a press controlled by the government, and individuals rights are not respected. Such “democracies” come and go, at the whim of the military or some other power elite. Democracy, here, is taken to mean a polity in which there are regular, institutionalized changes in power, in line with the preferences of the people, freely expressed. It entails a whole fabric of institutions: two or more political parties, some measure of checks and balances among the various branches of the government (although, of course, these may differ from the American setup), courts that effectively protect individual rights, and a free press. While some scholars draw important conceptual distinctions between liberal (rights-based) polities and democratic ones, and others focus on the definition of liberty, here we treat all of these as key elements of a democratic polity. To remind the reader of this fact, I will use the phrase “constitutional democracy;” our democracy is ensconced in a framework of rights that are not subject to majority rule.

The Slippery Slope Hypothesis

The civil libertarian's narrative about how democracies are lost is basically as follows. First, the government, in the name of national security or some other such cause, trims some rights, which raises little alarm at the time (e.g., the massive detention of Japanese Americans during World War II). Then a few other rights are curtailed (e.g., the FBI spies on civil rights groups and peace activists during the Sixties). Soon more rights are lost and, gradually, the whole institutional structure on which democracy rests tumbles down the slope with nobody able to stop it.

If one fully embraces this argument, one cannot in good conscience support any significant adjustments in the ways we interpret the Constitution, its Bill of Rights, the powers allotted to public authorities, and other key features of a democratic polity. If one fears setting a foot on the slope because he may end up on his backside at the lower end of the slope, there is only one alternative—to remain frozen at the top, opposed to all changes. Indeed, during a debate about the U.S.A. Patriot Act (which includes numerous post-September 11 changes in U.S. laws to enhance the war against terrorism, including trimming some rights and redefining others), Nadine Strossen, president of the ACLU, was repeatedly asked whether there were any changes in public policies relevant to safety she would find acceptable. She refused to endorse any. (When Katie Corrigan, legislative counsel with the ACLU's Washington office, testified before Congress she noted that the ACLU has supported some post-September 11 changes, including the fortification of cockpit doors, matching baggage with passengers, and limiting the number of carry-on bags passengers may bring on planes, a rather limited list.)

In contrast, I have argued that one should be able to make notches in the slope. In other words, before setting foot on it, one needs to and can clearly mark how far he is willing to go and what is unacceptable, to avoid slipping to a place one is not willing and ought not to go. A detailed examination of the changes introduced after September 11 in the United States find some of them very reasonable (e.g., roving wire taps) and others quite unacceptable (e.g., the military tribunals as originally conceived). The distinction between these changes suggests that rather than refusing to adjust, we need to examine more closely the various new measures that are being advanced. Indeed, very few would seek to leave the Constitution as originally formulated, according to which non-Europeans do not count as full persons, there is no right to privacy, and free

speech is much less protected than post-1920 interpretations (led by the ACLU to its credit) made it. In short, changes in the ways we view individual rights do not signify the ending of a democratic form of government. As I shall try to highlight in the next section, the relationship runs the other way around: when democratic institutions and policies do not provide an adequate response to new challenges—they are undermined.

The Weimar Hypothesis

There is an immense literature on the question of what led to the collapse of the Weimar Republic and the rise of Nazi Germany, containing numerous different interpretations of that piece of history. It is well beyond the scope of this essay to try to sort out these differences. For the purposes at hand, it suffices to cull out one hypothesis, which can be further examined in light of recent developments and data. The hypothesis is that the Weimar Republic lost its legitimacy and opened the door to a tyrannical government due to its woefully insufficient responses to major public needs.

Following the defeat of Germany in World War I, the people's pride was already shaken. People felt threatened when defeat in the war was followed by massive unemployment and runaway hyperinflation, leading to what historian Peter Fritzsche in *Germans Into Nazis* called "extraordinary hardship[s]" and "disastrous economic and political conditions." The Weimar Republic's response was weakened by its difficulties in forming coalitions among what Theodore Abel described as its "superabundance of political parties," corruption, and scandals. For instance, the "growing number and severity of the problems confronting the German nation were largely due to the inefficiency of the government," Abel found in his *The Nazi Movement*, as well as "discontent within the existing social order" which was the first factor contributing to the rise of the Nazi movement. Abel notes that discontent was expressed by people blaming the government for their problems. In their attempts collectively to act, they responded to perceived threats to their "personal and social values." Overall, "the Weimar system has enormous weaknesses," Kurt Sontheimer observed in 1967.

Other scholars, for instance Sheri Berman, point to similar reasons the republic collapsed. She argues that although the Weimar Republic had an active civil society, its weak political institutions and structures sharpened divisions in German society and "obstructed meaningful participation in public life" ("Civil Society and the Collapse of the Weimar

Republic,” *World Politics* 49, no. 3 (1997): 424). Likewise, Arthur van Riel and Arthur Schram note that the elected national assembly was unable to respond effectively to economic challenges and that “any struggle for political reform was viewed as a threat to the delicate equilibrium of political and economic interests” (“Weimar Economic Decline, Nazi Economic Recovery, and the Stabilization of Political Dictatorship,” *Journal of Economic History* 53 (March 1993): 75). Similar observations have been made by other historians as well. The inefficiency of democracy and the difficulty forming a coalition have been highlighted by Fritz Stern, who also argued that “as the economy faltered and the government was unable to react to the economic and political problems, voters turned their back on the Weimar Republic” (“Introduction,” in *The Path to Dictatorship: 1918-1933*, trans. John Conway (New York: Praeger, 1967): xx). As a result of the lack of responsiveness, “too many Germans did not regard it as a legitimate regime,” writes E. J. Feuchtwanger in *From Weimar to Hitler* (though he notes the other numerous factors that contributed to the republic’s demise). According to these as well as still other scholars, the Weimar Republic did not respond effectively—both economically and politically—to its citizens’ major needs in the face of crises, and thus lost its legitimacy. In short, inaction in the face of threats, not excessive action, killed the Weimar Republic. When democracies do not work, they open themselves to tyrannies.

Post-September 11 Lessons

Did our constitutional democracy lose support after September 11 and, if it did, under what factors? The data cited next suggest that during the immediate period after the attack, when the public was most concerned about its safety (fearing additional attacks from sleeper terrorist cells on short order), people were most willing to support a strong government, including one that would set aside many basic individual rights.

However, in the subsequent period, as the government did take numerous and varying measures to enhance public safety and no new attacks occurred, the public gradually restored its commitment to the rights-centered, democratic regime. What endangered it was not curtailment of rights, but fear that the public might not be protected. And as the government vigorously enacted measures to protect the public, the public’s support for constitutional democracy was reaffirmed. That is, the U.S. experience in the months following September 11

helps support the suggested hypothesis by providing a case with a profile opposite of the Weimar one. When the government reacted firmly to a major challenge, support for constitutional democracy was sustained rather than undermined.

Public Fears in the US: 2001-2002

To put the hypothesis that is being explored here in semi-formal terms, it might be said that we seek to assess whether the size of a challenge (in this instance the September 11 attacks) minus the impact of new measures undertaken to enhance public safety will correlate with the extent to which the public will support a rights-based, constitutional democracy. (Correlate rather than equals because other factors will affect the dependent variable.) For the purposes at hand, no distinction is made as to whether the public’s concerns are realistic, overblown, or underestimating the danger. (We know from crime studies that the public’s fear of crime and the actual level of crimes do not necessarily go hand in hand.) The reason for this approach is that democracy will be endangered if the public’s fears rise above a certain level, regardless of whether these concerns are realistic or not. The same holds for safety measures. If putting armed guards in airports add little to public safety, but help reassure the public, then armed guards will serve to reduce anxiety and help undergird the public support for our form of government.

A reasonable measure of the initial scope of the public’s safety concerns and the extent to which it declined after September 11 is provided by statistics on domestic airline traffic within the United States, based on behavioral data which are considered more reliable than attitudinal data, to which I will have to turn shortly. Airline traffic fell precipitously in the period immediately following the attack, and gradually recovered, but it did not return to the pre-September 11 level by the end of the period for which information was available (through February 2002).

Prior to September 11, airlines were experiencing a slight increase of a little less than one percent in enplanements over the year 2000; in August 2001, passengers boarding flights increased by 3.1 percent over the previous year. (A year-high 56.1 million passengers boarded U.S. carriers for domestic flights in August 2001; 54.4 million did so in August 2000.) In September 2001, (which includes the 10 days before the attack) enplanements dropped 34 percent from September 2000 (when 47.7 million passengers boarded planes, compared

to the 31.4 million who did so during the month of the attacks, when airports across the country were shut down).

Traffic began a slow but steady increase during the remainder of the year, though enplanements remained considerably less than what they were during the same months in the year 2000. In October, air carriers experienced 21.2 percent fewer enplanements over the previous year (a decrease from 50.5 million to 39.8 million). As the highly-traveled holiday months approached, the drop in enplanements continued to recede. In November, there were 18.5 percent fewer enplanements than the same month last year (a decrease from 50.9 million to 41.5 million) and December saw a 13.4 percent decrease over the 2000 holiday season (down from 46.7 million to 40.5 million).

The first two months of the year 2002 follow the same pattern, showing people slowly, but steadily returning to air travel. January 2002 enplanements were down 13.0 percent compared to 2001 (a decrease from 43.8 million to 38.1 million), and February saw 10.8 percent fewer enplanements compared to February 2001 (a decrease from 47.6 million to 42.4 million). In short, as numerous new airline safety measures were introduced, one new attack (by a so-called shoe-bomber) was successfully foiled, and no others took place, the public's confidence in airline travel was gradually being restored.

Commitment to Constitutional Democracy

We can see a base line of sorts in the following data on perceptions about personal freedoms (Table 1). A year before the attacks, 54 percent of Americans were concerned that the government threatens their own personal rights and freedoms, while two months after the attacks the figure rose to 67 percent, encompassing two-thirds of all Americans. (By that time several measures to enhance safety had been introduced and public fears began to subside.

Regrettably, no data is available for the same question immediately after the attack.)

When people were asked explicitly, "Would you be willing to give up some of the liberties we have in this country in order for the government to crack down on terrorism, or not?" their responses tell the same story. Shortly after the bombing of the Murrah Federal Building in Oklahoma City in April 1995, a hefty majority (59 percent) favored giving up some liberties. Given a month, the numbers began to subside to 52 percent, only to zoom to about two-thirds (66 percent) of Americans on September 11.

The same sentiments are revealed in another poll that asked, "What concerns you most right now? That the government will fail to enact strong, new antiterrorism laws, or that the government will enact new antiterrorism laws which excessively restrict the average person's civil liberties?" While 44 percent were concerned that the government would enact laws that restrict civil liberties in 1995, about one-third (34 percent) expressed such reservations in September 2001.

The willingness of people to give up rights in order to fight terrorism, and their perception of whether or not they will need to give up some of their own rights, is also tied to their level of fear. As Table 2 shows, a clear majority (59 percent) of Americans were willing to give up some liberties after what was, in retrospect, a small attack, the bombing of the federal building in Oklahoma City in April 1995. When the same question was asked a mere month later, people already had begun to calm down, and their willingness to support reductions of liberty declined to 52 percent. After the 2001 attacks on America, two-thirds of Americans were willing to sacrifice some liberty to fight terrorism. (When the question was worded differently, the percentage was even higher—78 percent).

Questions about "necessity" instead of willingness to give up liberties (Table 3) reveal a similar

TABLE 1
GOVERNMENTAL THREATS TO PERSONAL RIGHTS AND FREEDOMS

Do you think the government threatens your own personal rights and freedoms, or not?			
	Yes	No	Don't know
November 2001	30	67	3
June 2000 ^a	46	54	— ^b

Source: National Public Radio/Kaiser/Kennedy School Poll on Civil Liberties, October 31-November 12, 2001.

^a National Public Radio/Kaiser/Kennedy School of Government

^b Less than one percent

TABLE 2
WILLINGNESS TO GIVE UP CIVIL LIBERTIES

Date	Question	Willing	Not willing	Don't know/No opinion
April 1995 ^a	Would you be willing to give up some of the liberties we have in this country in order for the government to crack down on terrorism, or not?	59	24	10
May 1995 ^a	Would you be willing to give up some of the liberties we have in this country in order for the government to crack down on terrorism, or not?	52	41	7
August 1996 ^b	Would you be willing to give up some civil liberties if that were necessary to curb terrorism in this country, or not?	58	23	6
September 2001 ^a	Would you be willing to give up some of the liberties we have in this country in order for the government to crack down on terrorism, or not?	66	24	7
January-March 2002 ^c	You are now more willing to give up certain freedoms to improve safety and security than you were before September 11th.	78	22	

Source: ^a ABC News/Washington Post Poll, 11 September 2001.

^b Los Angeles Times Poll, 3 August-6 August 1996. This poll was conducted a few weeks after the explosion of TWA Flight 800 and the bombing at Centennial Olympic Park during the 1996 Summer Olympics in Atlanta. The poll also contained the response "it depends," chosen by 13 percent of respondents (which is not included in Table 2).

^c Gallup Poll, 28 January-22 March 2002. Responses to the question included "strongly agree" (29.5 percent), "agree" (48.8 percent), "disagree" (13.6 percent), and "strongly disagree" (8.1 percent).

TABLE 3
NECESSITY TO GIVE UP LIBERTIES

Date	Question	Necessary	Not necessary	Don't know
September 2001 ^a	In order to curb terrorism in this country, do you think it will be necessary for the average person to give up some liberties or not?	61	33	6
November 2001 ^b	In order to curb terrorism in this country do you think it will be necessary for the average person to give up some rights and liberties, or do you think we can curb terrorism without the average person giving up rights and liberties?	51*	46*	3
November 2001 ^b	Do you think you will have to give up some of your OWN rights and liberties in order to curb terrorism, or not?	58**	39**	3
June 2002 ^c	In order to curb terrorism, do you think it will be necessary for the average person to give up some liberties, or not?	49	45	6

Source: ^a Los Angeles Times Poll, 13-14 September, 2002.

^b National Public Radio/Kaiser/Kennedy School Poll on Civil Liberties, 31 October 2001-12 November 2001.

^c Pew Research Center for the People and the Press New Interest Index Poll 19-23 June, 2002.

Notes: * Responses include "necessary for the average person to give up some rights and liberties" and "we can curb terrorism without the average person giving up rights and liberties." ** Responses include "yes" and "no."

TABLE 4
LAW ENFORCEMENT AND CIVIL LIBERTIES

Here are some increased powers of investigation that law enforcement agencies might use when dealing with people suspected of terrorist activity, which would also affect our civil liberties. For each, please say if you would favor or oppose it.

		Favor	Oppose	Not sure/ Decline to answer
Expanded undercover activities to penetrate groups under suspicion	Sept. 2001 March 2002	93 88	5 10	1 2
Stronger documents and physical security checks	Sept. 2001 March 2002	93 89	6 9	1 2
Stronger document and physical security checks for access to government and private buildings	Sept. 2001 March 2002	92 89	7 10	1 1
Use of facial-recognition technology to scan for suspected terrorists at various locations and public events	Sept. 2001 March 2002	86 81	11 17	2 2
Issuance of a secure I.D. technique for persons to access government and business computer systems, to avoid disruptions	Sept. 2001 March 2002	84 78	11 16	4 6
Closer monitoring of banking and credit card transactions, to trace funding sources	Sept. 2001 March 2002	81 72	17 25	2 2
Adoption of a national I.D. system for all U.S. citizens	Sept. 2001 March 2002	68 59	28 37	4 5
Expanded camera surveillance on streets and in public places	Sept. 2001 March 2002	63 58	35 40	2 2
Law enforcement monitoring of Internet discussions in chat rooms and other forums	Sept. 2001 March 2002	63 55	32 41	5 4
Expanded government monitoring of cell phones and email, to intercept communications	Sept. 2001 March 2002	54 44	41 51	4 4

Source: Harris Poll, 13 -19 March 2002 and Harris Poll, 19-24 September 2001.

pattern. More than six in ten Americans agreed that it was a necessary to give up some rights immediately after September 11. Two months later, the number fell to a bit to more than five out of ten Americans.

Asked about specific measures, the picture is completely consistent: as fear subsides, support for safety, even at the cost of liberty, remained very high (as warnings about more attacks, including ones with dirty bombs and bioterror agents were standard diet), but declined over time with regard to all of the ten specific measures the public was asked about. Indeed, on seven out of the ten measures,

more than two-thirds of Americans were initially willing to sacrifice the specific rights listed.

When the same issue was raised in a different manner the results were similar. Table 5 shows that the percentage of Americans who held that the government went too far in restricting civil liberties to fight terrorism remained consistently small, but increased from eight percent to 12 percent as America experienced no new attacks and numerous new safety measures were introduced. The percentage of those who believed that the government did not go far enough declined somewhat.

TABLE 5
GOVERNMENT EXCESS IN RESTRICTING CIVIL LIBERTIES

Based on what the Bush Administration has done so far and is proposing to do in response to terrorism, do you think they are going too far in restricting civil liberties in this country, not far enough, or are handling this situation just about right?

	Too Far	Not far enough	Just about right	Don't know
September 2001	12	23	59	6
November 2001	11	14	72	3
February 2002	8	17	72	3

Source: Newsweek Poll, 31 January-1 February 2002.

In responses to overarching questions (such as, “Overall, how confident do you feel that U.S. law enforcement will use its expanded surveillance powers in what you would see as a proper way, under the circumstances of terrorist threats?”), we see the beginning of a shift, the decline in those who are very confident law enforcement will use such powers properly, which is less problematic than a significant increase in those who are not confident at all. While in March, the percent of people who felt “very confident” fell to almost one-third of what it was in September (from 34 percent to 12 percent), those who were “not confident at all” increased by a mere two percent (from four percent to six percent), well within the margin of error for such polls.

As far as one can rely on attitudinal data that vary according to how the question is phrased, the data support the thesis that the higher the fear, the greater the willingness to curtail liberty to protect safety. And that as new safety measures are introduced, and no new attacks occur—when the government’s response seems effective—fear subsides and support for democracy beings to re-increase. The fact that the support for strong anti-terrorist measures remains high reflects the fact that all of the data were collected within nine months of the attack and under frequent warnings about immanent attacks, new threats, and so on. The thesis would lead one to expect that if the panic subsides some more, the proportion of those supporting a curtailment of rights will further decline. This may seem obvious, but it surely is not so obvious to those who hold that democracy is lost by introducing new safety measures that entail some curtailment of rights. These are a core elements of what protects the public and reassures it.

Less Crime: More Support for Liberty

Beyond the scope of this presentation is another relevant source of data—the correlation between the public support for “tough” elected officials and law enforcement personnel who favor restrictive and punitive policies that entail curbing individual liberties. Some informal evidence to this effect is available for the mid-1990s.

Following a series of high profile violent crimes, including a rampage killing five passengers on a Long Island railroad and several murders of European tourists in Florida, the public became highly fearful of violent crime and sought get-tough measures. In the mid-1990s the public cited crime as the biggest problem facing the country (19 percent) with an additional two percent identifying guns as the biggest problem, followed by the economy (14 percent) and unemployment and jobs (12 percent). In 1996, crime and drugs were identified as the biggest problem by nearly a quarter of respondents. In contrast, four years earlier, in January 1992, 54 percent of Americans cited economic issues as the most important issue facing the country, while only two percent cited guns or violence.

In the mid-1990s, Americans overwhelmingly favored treating juveniles who commit violent crimes the same way as adults, as opposed to more leniently (by nearly a three to one margin). They also supported more extreme measures such as caning, following American Michael Fay’s such punishment in Singapore for vandalism. A 1994 poll shows that less than half of Americans felt that caning is too harsh a punishment for assault (44 percent), robbery (48 percent) and drug dealing (36 percent). Nearly 60 percent of Americans favored the “surgical or chemical castration of men repeatedly convicted of rape or child molesting.”

During this same time period, demagogues advocated “street justice” and “shoot first, ask questions later.” Former Los Angeles Police Chief Daryl Gates publicly made comments to this effect. For instance, at a news conference about the rioting that occurred after the beating of Rodney King by Los Angeles police officers, Gates was quoted on the front page of the *Los Angeles Times* (October 22, 1992) as saying, “Clearly that night we should have gone down there and shot a few people. In retrospect that’s what we should have done. We should have blown a few heads off. And maybe your television cameras would have seen that and maybe that would have been broadcast and maybe, just maybe, that would have stopped everything. I don’t know. But certainly we had the legal right to do that.”

That was not the only time Gates made such comments. A few years later in *USA Today* (April 16, 1996), Gates stated, “No matter how you use that club, people are going to criticize.” Law enforcement personnel were not alone in expressing their support of “street justice.” Other public officials, including legislators, expressed similar views. For example, in 1995, a former member of the Georgia State Assembly introduced a bill (which garnered support, but failed to become law) dubbed “shoot first, ask questions later,” which would have allowed homeowners to shoot intruders in their homes.

As the decade came to a close, these sentiments faded away to some degree. A poll conducted in 2000 shows the change in the public’s perception of crime. The percent of those who believed crime in the country was “very bad” or “bad” fell from 90 percent in 1996 to 80 percent in 2000. Even more to the point, among those who felt crime was a problem in the country, less than one-quarter (23 percent) characterized crime as “very bad or “bad” in their own community in 2000, as compared to the almost one-third (31 percent) who characterized crime as “bad” or “very bad” in 1996.

Polls conducted in the late 1990s also showed that people believed there was less crime in their neighborhoods. (In 1998, 48 percent of Americans thought there was less crime in their area than a year ago.) Also, in the latter half of the decade, fewer people believed that crime in the country had increased over the previous year. (In 1998, 52 percent of Americans thought crime increased in the country over the previous year, as compared to 64

percent who thought crime increased in 1997, and 87 percent who thought crime increased in 1993.)

By the end of the 1990s, as public authorities succeeded in curbing violent crime, fear of crime subsided and there was less talk of get-tough, extra-legal measures and less support for harsh but legal measures. By the end of the 1990s and in the year 2000, when polls showed that the public perceived crime as less of a problem, the statistics on violent crime corroborated their feelings. For instance, in 1998 there were 1.5 million violent crime offenses, and by the year 2000 offenses decreased even further to 1.4 million, a stark contrast with the much larger number of offenses in the mid-1990s (1.9 million violent crime offenses in 1994 and 1.8 million in 1995).

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To the extent that one can draw conclusions from the evidence at hand, some of it being historical, some behavioral, and some attitudinal, it seems to support the thesis that democracy is endangered not when strong measures are taken to enhance safety, to protect, and reassure the public, but when these measures are not taken. The “correlation” between strong safety measures and democracy is just the opposite of what civil libertarians argue: It is positive rather than negative. This, of course, does not mean that any and all new safety measures are needed, but that, in general, effective enhancement of safety (and more generally, those measures which respond to public needs) is crucial for democracy to be sustained. Once safety is restored, the measures can be gradually rolled back, without endangering public support for constitutional democracy.

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